

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay Service)	CG Docket No. 10-51
Program)	
)	
Telecommunications Relay Services and Speech-)	
to-Speech Services for Individuals with Hearing)	CG Docket. 03-123
and Speech Disabilities)	

COMMENTS OF ZVRS TO THE VRS IMPROVEMENTS FNPRM

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EXECUTIVE SUMMARY

ZVRS offers these comments regarding proposed improvements to VRS that were contained in the Further Notice of Proposed Rulemaking in the above-captioned proceeding. ZVRS appreciates the Commission's interest in improving the VRS program, but notes that the improvements proposed in the FNPRM were part of an entire package proposed to the Commission, by all six VRS providers, which included freezing VRS compensation rates. Although the improvements may be helpful, and ZVRS supports a number of them, the Commission should consider both the timing of the improvements (if rate freezes are not forthcoming), and whether the improvements are likely to have a material impact on the serious structural and competitive issues affecting the VRS market.

In these comments, ZVRS both offers its thoughts about the proposed improvements from the FNPRM and urges the Commission to seriously consider directing its attention and resources to larger issues facing the VRS program which have not improved since they were first identified by the Commission in 2011. Resolution of those issues (including, but not limited to, interoperability, portability, standards development, and curtailing improper marketing practices) will have the greatest impact on the health and competitiveness of the VRS service.

Turning to the VRS Improvements proposed in the FNPRM, ZVRS encourages the Commission to:

- 1) Authorize the use of at-home interpreting as a complement to call-center-based VRS, which will provide many benefits while also meeting the Commission's rules on mandatory minimum requirements and waste, fraud, and abuse;
- 2) Adopt the rule requiring 80% of monthly VRS calls to be answered within 45 seconds, adopt proportional penalties for failure to meet the standard, and streamline the waiver process for failures due to unavoidable events beyond a provider's control;
- 3) Conduct trials for skills-based routing, compensate providers at the level needed to allow them to fully participate in the skills-based routing trial, maximize the utility of the data generated, focus the trial on readily definable skills, and allow providers the

ability to compensate specialized interpreters for their skills if skills-based routing is permanently authorized;

- 4) Assign iTRS numbers to hearing individuals with sign language proficiency for calls with deaf and hard of hearing individuals after thoroughly reviewing and resolving the associated implementation issues; and
- 5) Authorize the use of deaf interpreters in the provision of VRS, which will enhance the functional equivalence of the service for all VRS users.

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COMMENTS OF ZVRS TO THE VRS IMPROVEMENTS FNPRM

CSDVRS, LLC d/b/a ZVRS (“ZVRS”) offers these comments regarding proposed improvements to the Video Relay Service (“VRS”) that were contained in the Further Notice of Proposed Rulemaking in the above-captioned proceeding.¹ ZVRS appreciates the interest of the Federal Communications Commission (“Commission”) in improving the VRS program, but notes that the improvements proposed in the FNPRM were part of an entire package proposed to the Commission, by all six VRS providers, which included freezing VRS compensation rates. Although the improvements may be helpful, and ZVRS supports a number of them, the Commission should consider both the timing of the improvements (if rate freezes are not forthcoming), and whether the improvements are likely to have a material impact on the serious structural and competitive issues affecting the VRS market.

In these comments, ZVRS both offers its thoughts about the proposed improvements from the FNPRM and urges the Commission to seriously consider directing its attention and resources to larger issues facing the VRS program which have not improved since they were first identified by the

¹ See *Structure and Practices of the Video Relay Services Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Further Notice of Proposed Rulemaking, FCC 15-143 (2015) (“FNPRM”).

Commission in 2011. Resolution of those issues (including, but not limited to, interoperability, portability, standards development, and curtailing improper marketing practices) will have the greatest impact on the health and competitiveness of the VRS service.

Turning to the VRS Improvements proposed in the FNPRM, ZVRS encourages the Commission to:

- 1) Authorize the use of at-home interpreting as a complement to call-center-based VRS, which will provide many benefits while also meeting the Commission's rules on mandatory minimum requirements and waste, fraud, and abuse;
- 2) Adopt the rule requiring 80% of monthly VRS calls to be answered within 45 seconds, adopt proportional penalties for failure to meet the standard, and streamline the waiver process for failures due to unavoidable events beyond a provider's control;
- 3) Conduct trials for skills-based routing, compensate providers at the level needed to allow them to fully participate in the skills-based routing trial, maximize the utility of the data generated, focus the trial on readily definable skills, and allow providers the ability to compensate specialized interpreters for their skills if skills-based routing is permanently authorized;
- 4) Assign iTRS numbers to hearing individuals with sign language proficiency for calls with deaf and hard of hearing individuals after thoroughly reviewing and resolving the associated implementation issues; and
- 5) Authorize the use of deaf interpreters in the provision of VRS, which will enhance the functional equivalence of the service for all VRS users.

I. THE COMMISSION SHOULD APPROVE AT-HOME INTERPRETING SUBJECT TO RIGOROUS SAFEGUARDS TO ENSURE COMPLIANCE WITH MANDATORY MINIMUM STANDARDS.

In the FNPRM, the Commission seeks comment on whether to remove the prohibition on the employment of at-home VRS communications assistants ("CAs")² and, if the prohibition is lifted, how to ensure that the use of at-home interpreting: (1) meets the Commission's mandatory minimum standards; and (2) does not increase the risk of waste, fraud, and abuse in the VRS

² See 47 C.F.R. § 64.604(b)(4)(iii).

program.³ ZVRS agrees that VRS providers should provide the same confidentiality, resiliency, and quality of service that is available to the hearing community, and that this is essential to meeting the functional equivalence mandate of the Americans with Disabilities Act.⁴ In the view of ZVRS, at-home interpreting can provide—and, in fact, enhance—these functionalities if implemented subject to the safeguards described herein.

A. At-Home Interpreting Would Provide Benefits to VRS Users and the Program as a Whole.

As an initial matter, ZVRS believes that at-home interpreting is a complement to—and not a replacement for—traditional call-center-based provision of VRS. By allowing VRS providers to employ both call centers and at-home interpreting, VRS users and the TRS Fund itself can reap the benefits and advantages that each setting offers. As ZVRS previously proposed in its 2011 petition for waiver of the at-home interpreting ban,⁵ hybridized use of CAs both at call centers and at home, will provide a good balance between the stability of centralized call center operations and the scalability and redundancy of at-home operations. As discussed in more detail below, at-home interpreting offers the following advantages: (1) Cost reductions for VRS providers at all times and network redundancy and scalability when there are adverse network, traffic, and weather events; (2) access to the entire base of qualified CAs and not simply those who reside near call centers; and (3) improved safety and security of call center CAs, particularly during overnight hours and at times of inclement weather.

³ See FNPRM at paras. 56-59.

⁴ See 47 U.S.C. § 225(a)(3).

⁵ See Petition for Temporary Waiver, CG Docket No. 10-51 (filed Aug. 12, 2011) (“ZVRS At-Home Waiver Petition”).

1. At-home interpreting offers natural redundancy and scalability, as well as obvious cost savings to VRS providers and the TRS Fund.

First, authorizing at-home interpreting will decrease VRS provider costs across the board. The use of at-home interpreting will allow VRS providers to reduce the number and size of call centers they lease or own, thereby reducing their facilities and utilities costs, which will correspondingly reduce the cost to the TRS Fund. Second, during times of inclement weather, network outages, or network traffic events, at-home interpreting will provide network redundancy and scalability which can be an advantage during such unforeseen circumstances. At-home interpreting can offer CA support to the deaf and hard of hearing community from all around the country, at diffuse locations, dynamically and seamlessly responding to network outages and spikes that can be caused for any number of reasons. The ability to flexibly respond to these network problems will allow VRS providers to more easily meet mandatory minimum standards, such as the speed-of-answer requirement during a traffic spike, thereby enhancing the functional equivalence of the service. Third, the availability of at-home interpreters also will reduce stress on those CAs working in call centers, which will enhance call quality and the functional equivalence of VRS.

2. Allowing at-home interpreting will afford employment opportunities to CAs everywhere.

Lifting the prohibition on at-home interpreting also will allow VRS providers to employ qualified CAs throughout the country, rather than only those near call centers. As providers have explained, the pool of qualified VRS CAs is quite small.⁶ The effect of the prohibition on at-home interpreting is to artificially limit this pool even further, to those interpreters who reside within a reasonable commuting distance from a call center. If the prohibition is lifted and the broader pool

⁶ See, e.g., Sorenson Communications, Inc. Comments on VRS Compensation Rates, CG Docket Nos. 10-51, 03-123, at 3 (filed Dec. 9, 2015) (noting that there are “only approximately 750 potential new RID-certified interpreter graduates each year”) (“Sorenson Rate Freeze Comments”).

of qualified interpreters is available to serve as at-home VRS CAs, the quality and functional equivalence of VRS service will, without question, improve.

3. At-home interpreting will afford better physical security for CAs in certain situations.

Removing the ban on at-home interpreting also will allow VRS providers to ensure the safety of their CAs in ways that are not possible today. At present, CAs that provide VRS service overnight must travel to and from call centers in the dark and must enter and leave the facilities at a time when sidewalks, streets, and parking lots are largely unoccupied. This raises obvious safety concerns that could easily be alleviated by allowing the use of at-home interpreters during night-time hours, removing this potentially dangerous commuting requirement for a significant number of CAs.

Similarly, in the event of large-scale inclement weather or other local, state, or national emergencies, VRS providers are currently faced with the decision to either ask their CAs to venture out in unsafe conditions or risk failing to meet the speed-of-answer requirement while the emergency event is ongoing. At-home interpreting would allow a VRS provider to route calls to a geographically dispersed base of CAs as opposed to the call centers affected by the emergency. This change would both maintain quality of service and preserve the safety of call center CAs who would not be required to travel in dangerous conditions.

B. With Sufficient Safeguards, At-Home Interpreting Can Meet the Commission's Mandatory Minimum Standards and Will Not Increase the Risk of Waste, Fraud, and Abuse.

In order to ensure compliance with the Commission's mandatory minimum standards for, *inter alia*, confidentiality, redundancy, and handling of emergency calls,⁷ as well as to prevent waste, fraud, and abuse, the removal of the prohibition on at-home interpreting should be accompanied by the adoption of rigorous conditions on the use of at-home interpreters. As ZVRS explained in

⁷ See 47 C.F.R. §§ 64.604, 64.605.

detail in its August 12, 2011 petition for waiver of the at-home interpreting ban—attached hereto as Exhibit A and on which the Commission never acted—safeguards to ensure that these conditions are met can be developed and implemented successfully and efficiently.⁸

To comply with confidentiality requirements, ZVRS offers a number of suggestions for the Commission’s consideration. First, the Commission should mandate that at-home CA workstations reside in a separate, secure location in the CA’s home. In this instance, “secure” should be defined as mirroring the facility access restrictions employed at a VRS call center and restricting access to the workspace solely to the CA. To further ensure the confidentiality of a VRS call routed to an at-home CA, the workspace must use reasonable means to prevent eavesdropping by other parties, such as white noise emitters or soundproofing insulation. The at-home CA’s workstation must connect to the provider’s network over a secure, dedicated connection and must be able to access only those sites necessary to the performance of VRS interpretation. In addition, each at-home CA must certify in writing his or her understanding of and commitment to comply with the Commission’s confidentiality rules before any VRS calls are routed to that CA.

To prevent waste, fraud, and abuse, ZVRS urges the Commission to adopt a requirement that all at-home CAs certify in writing their understanding of and commitment to comply with the Commission’s fraud prevention rules. To further ensure that no waste, fraud, and abuse takes place, the Commission should also require reasonable monitoring measures for at-home interpreters that approximate the level of supervision in a call center setting. As ZVRS has explained, these measures may take the form of tracking software that monitors and records every action an at-home CA takes on his or her workstation and produces reports that can be analyzed for anomalies suggesting

⁸See ZVRS At-Home Waiver Petition; Comments of CSDVRS, LLC, CG Docket No. 10-51 (Filed June 10, 2010) (“ZVRS Call Practices Comments”).

possible fraud.⁹ To preserve user confidentiality, the monitoring software would not record the content of interpreted conversations. Similarly, the CA's workstation desktop could be remotely viewable by a supervisor, just as a call center supervisor could look in on a call center CA. The CA could also be monitored by an external camera feed—accessible only to an approved supervisor—with a view of the workspace.¹⁰

If the Commission approves at-home interpreting, one additional precaution it should take is to require a uniform VRS user experience from call center to home. A VRS user should not be able to discern whether the call was handled by a call center CA or an at-home CA. The at-home workspace should mimic the appearance of the provider's call centers in both color and lighting schemes, and calls should be seamlessly transferrable to a supervisor or to customer care, as would be the case in any call center.

Given the significant benefits to the overall quality of VRS and the availability of new technological advancements and safeguards that would comprehensively address the concerns that led to banning at-home interpreting in the past, the Commission should lift the prohibition and approve the use of at-home interpreters. ZVRS and other VRS providers are ready, willing, and able to implement rigorous conditions needed to ensure compliance with the Commission's mandatory minimum standards and any requirements needed to prevent waste, fraud, and abuse.

⁹ See ZVRS At-Home Waiver Petition at 7; ZVRS Call Practices Comments at 5.

¹⁰ See ZVRS At-Home Waiver Petition at

II. ZVRS SUPPORTS THE PROPOSAL TO REQUIRE ANSWERING OF 80% OF MONTHLY CALLS WITHIN 45 SECONDS, URGES THE COMMISSION TO ADOPT PROPORTIONAL PENALTIES FOR FAILING TO MEET THE STANDARD, AND URGES THE COMMISSION TO DRAMATICALLY STREAMLINE ITS WAIVER PROCESS FOR FAILURES TO MEET THE STANDARD DUE TO EVENTS BEYOND A PROVIDER’S CONTROL.

A. The Commission Should Adopt an Enhanced Speed-Of-Answer Requirement.

ZVRS supports the Commission’s proposal to revise the speed-of-answer rule to require VRS providers to answer 80% of monthly calls within 45 seconds.¹¹ As the Commission notes, this approach appropriately balances factors “including the availability of sign language interpreters, the need to ensure adequate working conditions for CAs who handle VRS calls, and the need to ensure a high quality of interpreting.”¹² The Commission is also correct in proposing a monthly, rather than a daily, measurement of the standard, as “providers are subject to random variation in demand that cannot be reasonably anticipated.”¹³ A daily measurement would be counterproductive. Moreover, to meet a daily measurement requirement and avoid losing compensation for any given day, a VRS provider would have to staff at peak levels, which would raise provider costs and create inefficiencies in the TRS Fund.¹⁴

B. The Commission Should Adopt Proportional Penalties for Failure to Meet the Standard, and Self-Executing Exemptions in Certain Circumstances.

With respect to devising the appropriate penalty for failure to meet the monthly standard, ZVRS urges the Commission to adopt a compensation withholding scheme that is proportionate to

¹¹ See FNPRM at para. 33.

¹² *Id.* at para. 34.

¹³ *Id.* at para. 35.

¹⁴ Although the Commission observes that all VRS providers would currently meet the proposed rule if it were in effect and concludes from that observation that there will be no additional cost to complying with the proposed rule, the ongoing decline in provider compensation rates is affecting VRS quality and the ability to easily meet the speed-of-answer requirement. A provider’s ability to satisfy the speed-of-answer rule is largely predicated on being sufficiently staffed with qualified CAs to handle expected call volumes. As compensation rates decline and cost of living increases, VRS providers become “less competitive with non-VRS community interpreting” and “[h]ighly skilled veteran interpreters are, unsurprisingly, moving away from VRS.” See Sorenson Rate Freeze Comments at 3.

the VRS provider's failure. That is, if a provider fails to meet the speed-of-answer requirement in a given month, the provider's compensation for that month should be reduced by an amount corresponding to the provider's shortfall (*e.g.*, if a provider answered 78% of calls within 45 seconds in a month, 2% of its compensation would be withheld).¹⁵ An overly punitive "all-or-nothing" approach creates a fear of withholding and the wrong incentives. A proportional withholding scheme will incent providers to staff appropriately for expected call volumes, and maintain efforts to meet the standard even during challenging months.

The Commission should also adopt a self-executing exemption for failures as a result of specific extraordinary events that are beyond a provider's control.¹⁶ As noted in the Joint Provider Proposal, specific extraordinary events such as denial-of-service attacks, Internet outages not under the VRS provider's control, periods of declared national or state emergencies covering more than 10% of a provider's interpreting capacity, or delays caused by the TRS-User Registration Database of more than one second, are both entirely outside a provider's control and virtually certain to result in a waiver of the speed-of-answer requirement.¹⁷ As such, any provider affected by such an event should be permitted to report to the TRS Fund Administrator the affected calls for exemption from the speed-of-answer calculation and avoid any possible withholding.

C. The Commission Should Adopt a Streamlined Waiver Process for Failures that Are Due to Force Majeure Events.

The Commission also should streamline the more general waiver process to ensure that providers' compensation is not withheld for excessive periods of time due to unavoidable circumstances beyond their control.¹⁸ For example, during a particularly powerful winter storm in a

¹⁵ FNPRM at para. 37.

¹⁶ *Id.* at para. 41 (citing Joint Proposal of All Six VRS Providers for Improving Functional Equivalence and Stabilizing Rates, CG Docket Nos. 10-51, 03-123, at 3-4 (filed Mar. 30, 2015) ("Joint Provider Proposal")).

¹⁷ See Joint Provider Proposal at 3.

¹⁸ *Id.* at 4.

region in which ZVRS is heavily staffed, it was impossible for the company to avoid significant impact on the call centers during the storm. ZVRS notified the Commission that it would likely have difficulty meeting the speed-of-answer requirement because of the impending storm and described the mitigation measures it was taking. Due to the storm and attending power outages, and in spite of its best efforts, ZVRS missed by slim margins the speed-of-answer for two days. Thereafter, two days of compensation was withheld. Despite the proactive efforts taken by ZVRS and its prior notification to the Commission, it took more than six months for ZVRS' waiver request to be resolved and the withheld funds to be released. To avoid similar unnecessary delays in the future, the Commission should adopt the waiver timeline proposed in the Joint Provider Proposal, whereby the TRS Fund Administrator would have 30 days to review a waiver petition and make a recommendation to the Commission, affording the Commission 30 days thereafter to review the recommendation and rule.¹⁹

III. SKILLS-BASED ROUTING COULD ENHANCE THE FUNCTIONAL EQUIVALENCE OF VRS, BUT THE TRIAL SHOULD BE STRUCTURED TO DERIVE THE MOST USEFUL DATA AND TO ENSURE THAT PROVIDERS ARE INCENTED TO PARTICIPATE.

In the FNPRM, the Commission seeks comment on the possible conduct of a trial of skills-based routing, whereby a VRS user placing a call requiring specialized service (*e.g.*, particular spoken-language abilities, medical, legal, or technical knowledge) would be routed to an interpreter with knowledge in that field.²⁰ As the first VRS provider to offer Spanish interpreting, ZVRS is particularly qualified to comment on skills-based routing. ZVRS supports the Commission's proposed trial of skills-based routing for the same reasons that it requires superior interpreting skills for all of its CAs—highly skilled interpreters help ensure that the crucial details in a VRS user's

¹⁹ *Id.*

²⁰ FNPRM at para. 44.

conversation in specialized contexts are accurately interpreted, enhancing the functional equivalence of the service.²¹

In the event the Commission proceeds with a trial on skills-based routing, the Commission should: (1) collect data that allows it to measure the impact of skills-based routing on the quality and efficiency of VRS calls; (2) focus the trial on readily definable and identifiable areas of interpreter expertise; (3) provide compensation for participating in the trial and, if skills-based routing is adopted permanently, provide for additional compensation for interpreters with specialized skills to reflect the market value of those skills; and (4) ensure through interoperability mandates that VRS users in need of specialized interpreting are able to reach a qualified CA regardless of their default provider.

A. The Commission Should Collect Data on Timeframes for Routing and Handling Specialized Calls.

First, if a trial is approved, the Commission should collect data on skills-based routing that will allow it to evaluate the impact on the speed-of-answer standard and the efficiency of the calls themselves. Although calls subject to skills-based routing during the trial should be exempted from the speed-of-answer requirement for purposes of determining compensation, the Commission should nonetheless collect data on the length of time necessary to connect a VRS user with a CA possessing the appropriate skill set. This will allow the Commission to assess the speed with which specialized calls are handled in comparison with the general speed-of-answer measurement. The Commission also should compare the length of specialized calls that are routed via skills-based routing against the length of similar calls that are routed to the first available CA, regardless of skill.

²¹ ZVRS believes it is important to employ interpreters with a high degree of skill for all calls. Accordingly, ZVRS employs only interpreters that are certified and screened to be qualified under the most stringent criteria established by the Registry of Interpreters for the Deaf. ZVRS further requires its video interpreters to work in the deaf community for a minimum of three years before they can be hired as ZVRS interpreters. The high quality skills of ZVRS interpreters are not only a distinguishing characteristic of ZVRS' service, but also a benefit to VRS users and the TRS Fund.

This measurement will provide the Commission with a sense of the efficiencies to be gained by routing calls to CAs with expertise in particular subject matter. ZVRS believes the Commission will find that calls handled by specialized interpreters will require fewer requests for repetition, fewer repeat calls, fewer call transfers, and less confusion for the VRS user, the voice telephone user, and the interpreter.

B. The Commission Should Focus on Readily Identifiable Specialized Skills.

In keeping with the goal of structuring the trial to produce readily measurable results, the Commission should focus initially on specialties that are easily identifiable and definable—in this case, medical, legal, and foreign-language proficiency. Other specialties, such as technical knowledge, are doubtlessly valuable to VRS users, but are also difficult to define and cover broad swaths of subject matter. Conversely, interpreters with special legal skills may have particular certifications and can be easily identified.

C. The Commission Should Provide Compensation for Participation in the Trial and Consider Reimbursement of Additional Labor Costs for Specialized Skills.

In view of the continuing decline in provider compensation rates, the Commission should not adopt its proposal that participation in this trial would take place at the providers' cost.²² Providers will have limited resources to allocate toward participation in this trial. Providers must be able to recover the costs needed to fully participate in the trial and provide the Commission the data necessary to evaluate the impact of skills-based routing on the functional equivalence of VRS and efficiencies for the VRS program.

If skills-based routing is adopted on a permanent basis, the additional labor costs incurred in recruiting and retaining CAs with specialized skill sets should be recoverable from the TRS Fund. The general proposition that “when a person with specialized or unique skills is hired, such an

²² *Id.* at para. 50.

employee often can command a significantly higher salary than can employees with more general skills” applies equally in the interpreter labor market.²³ VRS users have a right to have their conversations interpreted accurately, a right that is particularly crucial in specialized contexts such as medical and legal settings. Misinterpretation can have grave consequences for a VRS user. VRS services that provide users with the highest assurances of accuracy in the most important contexts are essential to achieving a functionally equivalent service, and the additional labor costs incurred to achieve that functional equivalence must be recoverable. Moreover, to the extent that trial data demonstrates that skills-based routing increases the efficiency of specialized VRS calls, these increased labor costs are likely to be offset to some degree by a decrease in the number of minutes required for each such call.

D. In Connection with Adopting Skills-Based Routing, the Commission Must Address Problems with Interoperability.

Given the lingering interoperability issues in the VRS market,²⁴ if skills-based routing is adopted on a permanent basis, then skills-based routing must be a universal requirement for all VRS providers. Otherwise, if a user requires specialized interpreting for a vital call and there is no interoperability (or only theoretical interoperability) between providers, that user may find him or herself stranded with no ability to get to an interpreter with the needed skill set.

IV. PROVIDING ITRS NUMBERS FOR HEARING INDIVIDUALS WITH SIGN LANGUAGE PROFICIENCY WILL FURTHER IMPROVE THE FUNCTIONAL EQUIVALENCE OF VRS, BUT ALSO POSES COMPLICATED IMPLEMENTATION ISSUES.

ZVRS supports, in concept, the Commission’s proposal to provide ten-digit iTRS numbers to hearing individuals who are able to sign to allow them to make point-to-point video calls to

²³ *Id.* at para. 47.

²⁴ *See, e.g.*, Comments of Convo Communications, LLC, CG Docket Nos. 10-51, 03-123, at 9 (filed Dec. 9, 2015); Comments of ASL Services Holdings, LLC, CG Docket Nos. 10-51, 03-123, at 14 (filed Dec. 9, 2015); ZVRS Rate Freeze Comments at 25-27.

eligible deaf or hard of hearing VRS users without the use of a VRS CA.²⁵ As the Commission correctly observes, doing so will “increase the functional equivalence of TRS by facilitating telephone communication between members of the deaf and hearing communities.”²⁶ Providing these numbers to sign-language-proficient hearing individuals will likely not increase traffic dramatically or otherwise burden providers’ networks, and will allow VRS users to directly communicate with these hearing individuals via the same means they use for the majority of their communications needs. Removing this artificial separation will further enhance functional equivalence for VRS users.

However, the provision of iTRS numbers to hearing individuals brings with it several implementation issues that bear thorough review and are likely to impose costs on providers. First, there must be some verification of the hearing individual’s need and qualifications to receive an iTRS number. A prospective hearing recipient of an iTRS number should be required, in connection with registering with a default provider, and in addition to the information required of eligible deaf or hard of hearing VRS users, to submit a self-certification to the effect that the hearing person is proficient in sign language, that he or she intends to only use the iTRS number to communicate with eligible VRS users, and that he or she is aware that point-to-point video calls made using any VRS provider’s service may only be made to, or answered from, persons the hearing individual knows to be deaf or hard of hearing. Second, although flagging a number for the TRS-URD as ineligible to make or receive VRS calls is characterized as “simple” in the FNPRM, the reality is that there are a number of operational challenges to monitor these numbers and ensure that they do not make or receive improper calls. Mechanisms to track and enforce restrictions on designated iTRS numbers, which would be required to implement the Commission’s proposal, do

²⁵ See FNPRM at para. 60.

²⁶ *Id.* at para. 62.

not currently exist and developing solutions to these challenges will necessarily come at a cost to providers. Third, assuming those operational issues are resolved, a mechanism must be developed to restrict the service to only video calls between hearing individuals with ASL proficiency and deaf or hard of hearing individuals. The Commission would not want to unwittingly turn a VRS provider's services into a free video chat service for hearing individuals. Finally, if a hearing individual intentionally or unintentionally calls 911 via a provider's service, the Commission must resolve the VRS provider's obligations in that case.

With the appropriate safeguards, ZVRS supports the Commission in providing VRS users with the clear benefits that will attend the provision of iTRS numbers to sign-language-proficient hearing individuals to allow direct video communication with the deaf and hard of hearing.

V. ALLOWING THE USE OF DEAF INTERPRETERS WILL ENHANCE FUNCTIONAL EQUIVALENCE FOR ALL VRS USERS WITH MINIMAL IMPACT TO THE FUND.

ZVRS supports Commission approval of the use of deaf interpreters to enhance the availability of functionally equivalent VRS for all users of the service. As the Commission notes, deaf interpreters are of particular value where a VRS user may have limited ASL proficiency, is a child, or has cognitive or motor disabilities.²⁷ These users are equally entitled to functionally equivalent telecommunications services, regardless of their ability to express themselves using the ASL with which generalist CAs are familiar. Allowing deaf interpreters to assist CAs in providing VRS to users with particular challenges will both improve the functional equivalence of the service and produce efficiency benefits. Where these particular challenges exist, a deaf interpreter will more quickly be able to interpret the user's conversations than will a generalist CA acting alone. In

²⁷ See FNPRM at para. 51.

addition, authorizing the use of deaf interpreters is not likely to burden the TRS Fund in any significant way, as the volume of calls requiring these specialized services is generally quite small.

In implementing the use of deaf interpreters, ZVRS agrees with the Joint Provider Proposal that calls for exempting these calls from the speed-of-answer rule.²⁸ Given the low volume of calls that are expected to require a deaf interpreter and the small number of deaf interpreters available to VRS providers, a VRS user should instead be notified of the expected wait time for a deaf interpreter and given the option of waiting or proceeding with a generalist CA. In view of the limited number of available interpreters and the low volume of calls requiring their services, the Commission also should adopt the proposal to allow deaf interpreters to join a call from a remote location.²⁹

For purposes of recordkeeping and reporting on the use of deaf interpreters, it would be appropriate for the Commission to require the recording and reporting of: (1) the amount of time that elapses between a request for a deaf interpreter and the time the deaf interpreter joins the call; and (2) the amount of time that elapses between the time the deaf interpreter joins the call and the time the deaf interpreter leaves the call. Capturing data on the first metric will allow the Commission to assess the general availability of deaf interpreters for calls requiring their services and determine whether a separate speed-of-answer requirement is needed for these calls. Capturing data on the second metric will allow calculation of the additional compensation due for the time the deaf interpreter is on the call.

ZVRS encourages the Commission to promptly authorize the use of deaf interpreters in the provision of VRS. Doing so will ensure that a functionally equivalent VRS is available to all deaf and hard of hearing individuals and not only those who are able to express themselves in ASL.

²⁸ See Joint Provider Proposal at 7.

²⁹ *Id.* at 6.

VI. CONCLUSION

ZVRS appreciates the Commission's interest in improving the VRS program, but observes that the improvements proposed in the FNPRM were part of an entire package proposed to the Commission, by all six VRS providers, which included freezing VRS provider compensation rates. Although the proposed improvements may be helpful, and ZVRS supports a number of them, the Commission should consider both the timing of the improvements, if rate stabilization is not imminent, and whether the improvements are likely to have a material impact on the serious structural and competitive issues affecting the VRS market.

If the Commission determines to proceed with the items raised in the FNPRM, ZVRS recommends that the Commission:

- 1) Authorize the use of at-home interpreting as a complement to call-center-based VRS, which will provide many benefits while also meeting the Commission's rules on mandatory minimum requirements and waste, fraud, and abuse;
- 2) Adopt the rule requiring 80% of monthly VRS calls to be answered within 45 seconds, adopt proportional penalties for failure to meet the standard, and streamline the waiver process for failures due to unavoidable events beyond a provider's control;
- 3) Conduct trials for skills-based routing, compensate providers at the level needed to allow them to fully participate in the skills-based routing trial, maximize the utility of the data generated, focus the trial on readily definable skills, and allow providers the ability to compensate specialized interpreters for their skills if skills-based routing is permanently authorized;
- 4) Assign iTRS numbers to hearing individuals with sign language proficiency for calls to deaf and hard of hearing individuals after thoroughly reviewing and resolving the associated implementation issues; and
- 5) Authorize the use of deaf interpreters in the provision of VRS, which will enhance the functional equivalence of the service for all VRS users.

ZVRS looks forward to continuing to help the Commission advance the VRS program, both through the development and implementation of needed structural reforms and through service enhancements of the type proposed in the FNPRM. ZVRS stands ready to assist the Commission

in pursuing initiatives to ensure that VRS users have access to an efficient, high-quality, functionally equivalent service, and to ensure that VRS users have competitive choice.

Respectfully submitted,

_____/s/
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